

**IN THE SUPREME COURT OF THE
UNITED STATES**

OCTOBER TERM, 1966

No. 450

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JAMES SAILORS, ET AL., APPELLANTS,

v.

**THE BOARD OF EDUCATION OF THE COUNTY
OF KENT, ET AL., APPELLEES.**

On Appeal from the United States District Court for the
Western District of Michigan, Southern Division

SUMMARY OF ARGUMENT

BRIEF FOR APPELLEE KENTWOOD PUBLIC SCHOOLS

PAUL O. SHAWVERDINE
740 Old Kent Building
One Vandenberg Center
Grand Rapids, Michigan 49508
*Attorney for Appellee Kentwood
Public Schools*

DAVID B. HARRIS
740 Old Kent Building
One Vandenberg Center
Grand Rapids, Michigan 49508
Of Counsel

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The following is the Summary of Argument, which was omitted in the Brief for Appellee Kentwood Public Schools.

1. The original individual plaintiffs and The Board of Education of the City of Grand Rapids, now appellants, brought this action to enjoin appellee, The Board of Education of the County of Kent, from acting on a transfer of territory requested by appellee Kentwood Public Schools on the ground [among others] that the county board was unconstitutionally composed and to enjoin further elections until the alleged malapportionment was brought into bal-

ance. An ex parte order restraining the county board from acting was entered and later revoked. The county board granted the requested transfer and the complaint was amended to set aside the transfer.

2. The one man one vote doctrine of *Reynolds v Sims*, 377 US 533, assumes that the one man has a constitutional or statutory absolute right to vote. In Michigan, education belongs to the state and is no part of local self-government. *Attorney General v Detroit Board of Education*, 154 Mich 584, 118 NW 606. School electors are not and never have been constitutional general electors and may only vote on such school questions as the legislature chooses. *Belles v Burr*, 76 Mich 1, 43 NW 24; *Lansing District v School Board of Education*, 367 Mich 591, 116 NW 2d 866.

3. The legislature did not provide for the popular election of members of county [intermediate] boards of education and a school elector does not have the right to vote for such members. This is not a "voting case" [see *Fortson v Morris*, 385 US 231] and the individual appellants have no personal right protected by the Equal Protection Clause of the Fourteenth Amendment. *Lansing District, supra*.

4. In the alternative, should the Court hold that Michigan county [intermediate] boards of education are malapportioned, the transfer of territory to appellee Kentwood Public Schools should stand as the act of a de facto body and the unanimous holding of the three-judge court in this respect should be affirmed. 254 F Supp 26 and 28.

5. The appellants appealed the act of transfer by the county board to the State Board of Education, which is a constitutional body whose members are elected at large throughout the State and which has never been a party to this suit. The act of transfer of territory by the State Board of Education of appellee Kentwood Public Schools should be sustained as the act of a de jure body.

6. Appellant The Board of Education of the City of Grand Rapids has no standing, because it has no privileges

or immunities under the Federal Constitution which it may invoke in opposition to the will of its creator. *Williams v Baltimore*, 289 US 36.

Respectfully submitted,

PAUL O. STRAWHECKER
740 Old Kent Building
One Vandenberg Center
Grand Rapids, Michigan 49502

*Attorney for Appellee Kentwood
Public Schools*

DANIEL B. HESS
740 Old Kent Building
One Vandenberg Center
Grand Rapids, Michigan 49502

Of Counsel